

Serial No. 10/517,099

Amend. In Resp. to Off. Act. of Sept. 8, 2006

UTILITY PATENT

B&amp;D No. P-US-PR-1080

**REMARKS**

Applicants have amended Claims 1 and 11, and canceled Claims 10, 12-13, 15-16, 18 and 20. Currently in the application therefore are Claims 1-6, 8-9, 11, 17 and 21-23.

The Examiner objected to Claim 1 because of the phrase "the cutting so that." In response, Applicants have amended Claim 1 as suggested by the Examiner

The Examiner rejected Claims 1, 3-6, 8-10 and 15-23 under 35 USC § 102(b) as being anticipated by US Patent No. 5,483,858 ("Chen"). The Examiner also rejected Claims 2 and 11 under 35 USC § 103(a) as being unpatentable over Chen in view of US Patent No. 5,988,031 ("Wixey"). Reconsideration and withdrawal of these rejections are respectfully requested.

Claim 1, as amended, calls for a miter saw comprising a base comprising a working surface having first and second guide tracks, a saw assembly pivotally connected to the base, the saw assembly comprising a blade, the blade being movable in a first cutting plane, the cutting plane intersecting the working surface along a first cutting line, and an adjustable elongated fence mounted on and supported by the working surface, the fence comprising a first portion disposed on one side of the cutting line and being substantially perpendicular to the working surface, a first track follower member connected to the first portion and in cooperative sliding engagement with the first guide track, the fence being pivotally mounted about the first track follower member, a second portion disposed on the other side of the cutting line, the second portion being substantially coplanar with the first portion and substantially perpendicular to the working surface, a second track follower member connected to the second portion and in cooperative

Serial No. 10/517,099

Amend. In Resp. to Off. Act. of Sept. 8, 2006

## UTILITY PATENT

B&amp;D No. P-US-PR-1080

sliding engagement with the second guide track, and a rigid support element extending outside the first plane when in the first position and extending between the first and second portions.

Admittedly, Chen discloses a miter saw with a pivotable fence. However, the Chen fence is not slidably movable along two tracks of the working surface, which ensures precision. Instead, it has two fence separate fence portions. One portion 31 is slidably disposed on the working surface, though not slidably disposed on a guide track in the working surface.<sup>1</sup> It logically follows that the portion does not have a track follower in sliding engagement with the working surface's guide track.

Furthermore, a second portion 28 is mounted to holes 220, rather than being sliding movable along a guide track. This is because Chen does not disclose a second guide track disposed in the working surface. Similarly, it logically follows that the second portion does not have a track follower in sliding engagement with the working surface's second guide track, as no such guide track exists..

In addition, no rigid element connects fence portions 28, 31. Because of such missing elements, fence portions 28, 31 can be non-coplanar, as shown in Chen's FIG. 3.<sup>2</sup>

By contradistinction, Claim 1 requires (a) "a working surface having first and second guide tracks", (b) "a first track follower member connected to the first portion and in cooperative sliding engagement with the first guide track, the fence being pivotally mounted about the first

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<sup>1</sup> Portion 31 slidably moves because of a slot 35 disposed in portion 31. Such slot 35 is not a guide track of the working surface as called for in Claim 1, as slot 35 is not part of the working surface.

Serial No. 10/517,099

Amend. In Resp. to Off. Act. of Sept. 8, 2006

UTILITY PATENT

B&amp;D No. P-US-PR-1080

track follower member," (c) "a second track follower member connected to the second portion and in cooperative sliding engagement with the second guide track," and (d) "a rigid support element extending between the first and second portions. Such arrangement ensures the precision of the fence. Because Chen does not disclose any of these missing elements, it cannot anticipate Claim 1 and its dependent claims.

Furthermore, because these elements are not shown in Wixey, the Chen/Wixey combination cannot render unpatentable Claim 1 and its dependent claims.

The Examiner rejected Claims 1, 3-6, 8-10, 12-13 and 16-23 under 35 USC § 102(b) as being anticipated by US Patent No. 4,464,962 ("Myhre"). Reconsideration and withdrawal of these rejections are respectfully requested.

Admittedly, Myhre discloses a saw with two guide tracks in the working surface, and first and second fence portions slidably movable the guide tracks. However, the first and second fence portions of the Myhre fence are not substantially coplanar. Furthermore, a rigid element connecting the first and second portions extends into the fence plane of fence 33.

By contradistinction, Claim 1 requires (a) "a second [fence] portion ...being substantially coplanar with the first portion", and (b) "a rigid support element extending outside the first plane when in the first position and extending between the first and second portions." Such arrangement ensures the precision of the fence. Because Myhre does not disclose any of these missing elements, it cannot anticipate Claim 1 and its dependent claims.

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<sup>2</sup> It is preferable for both portions to be substantially coplanar to ensure a precise support surface.

Serial No. 10/517,099

Amend. In Resp. to Off. Act. of Sept. 8, 2006


UTILITY PATENT

B&D No. P-US-PR-1080

No fee is believed due. Nonetheless, the Commissioner is authorized to charge payment of any fees due in processing this amendment, or credit any overpayment to Deposit Account No. 02-2548.

In view of the foregoing, Claims 1-6, 8-9, 11, 17 and 21-23 are patentable and the application is believed to be in condition for formal allowance.

Respectfully submitted,

  
Adan Ayala  
PTO Reg. No. 38,373  
Attorney for Applicants

The Black & Decker Corporation  
701 East Joppa Road  
Towson, Maryland 21286  
(410) 716-2368